



CRL MP(MD) No.1191 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Fifth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.1191 of 2024

in

CRL RC(MD)No.97 of 2024

MUTHU

... PETITIONER/PETITIONER

Vs

THE SUB INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
AABASAMUDRAM,
TIRUNELVELI DISTRICT.

... RESPONDENT/RESPONDENT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased too Suspend the Sentence imposed against the petitioner in C.A No.86/2023 dated 04.10.2023 on the file of the 3rd Additional District and Sessions Court, Tirunelveli confirming the judgment and sentence passed in CC No.119/2016 dated 10.02.2023 on the file of Judicial Magistrate Court, Ambasamudram and enlarge the petitioner on bail pending disposal of above Criminal Revision Petition.

Prayer in CRL RC(MD). 97/ 2024 :

To call for the records and set aside the judgment passed in CA No.86/2023 dated 04.10.2023 on the file of the 3rd Additional District and Sessions Court, Tirunelveli confirming the judgment and sentence passed in CC No.119/2016 dated 10.02.2023 on the file of Judicial Magistrate Court, Ambasamudram by allowing this criminal revision petition.



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Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.KISHOK KUMAR.V.S, Advocate for the petitioner and of Mr.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent while admitting the Criminal Revision Petition., the Court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in C.A.No.86 of 2023, dated 04.10.2023, on the file of the III Additional District and Sessions Court, Tirunelveli, and to enlarge the petitioner on bail, till the disposal of this Criminal Revision.

2. The case of the prosecution is that the defacto complainant went to her parental home for giving birth to a child and that the petitioner has reduced his visits to see the child and upon enquiry, the petitioner has married one Meenatchi, who is arrayed as A2. On 23.11.2015, when the defacto complainant went to the bus stop, the said Meenatchi abused the defacto complaint and hence, the defacto complainant preferred a complaint before the respondent police thereby a case has been registered in Crime No.45 of 2015 under Sections 498-A, 406, 294(b), 494 and 506 (I) of IPC and the same was taken on file before the learned Judicial Magistrate, Ambasamudram.

3. The learned counsel for the petitioner would submit that the petitioner was convicted by the learned Judicial Magistrate, Amabasamudram and sentenced him



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to undergo 1 year Rigorous Imprisonment for the offence under Section 498-A of IPC along with a fine of Rs.5,000/- in default to undergo one month Simple Imprisonment. The petitioner preferred an appeal before the learned III Additional District and Sessions Court, Tirunelveli, which confirmed the conviction and sentence imposed on the petitioner by the trial Court. Aggrieved over the same, the petitioner has filed the present revision along with the suspension of sentence petition.

4. The learned counsel for the petitioner submitted that the Court below failed to consider the material infirmities in the prosecution and when there is no material or evidence as projected by the prosecution, the Court below ought not to have held that the petitioner is found guilty and hence, the learned counsel prays for grant of suspension of sentence to the petitioner.

5. Per contra, Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor would submit that there are enough materials available on record against the petitioner and hence, opposed for allowing the petition.

6. Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.



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7. Considering the arguable points of the petitioner and the facts and circumstances of the case, this Court is of the *prima facie* view that the sentence is to be suspended pending this Appeal.

8. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned III Additional District and Sessions Judge, Tirunelveli, in C.C.No.86 of 2023 dated 04.10.2023 alone is suspended, subject to the following conditions:-

i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like-sum to the satisfaction of the learned III Additional District and Sessions Judge, Tirunelveli;

ii) The petitioner shall appear and sign before the learned III Additional District and Sessions Judge, Tirunelveli, on the first working day of every English calendar month at 10.30 a.m., until further orders.

iii) In case, if the petitioner is unable to appear before the Court on the first working day of a month, he shall appear on the next working day.

iv) The petitioner shall furnish his residential address and mobile number to the appellant Court i.e., the learned III Additional District and Sessions Judge, Tirunelveli.



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v) On breach of any of the aforesaid conditions, the learned III Additional District and Sessions Judge, Tirunelveli, is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the appellant released on bail by the learned Additional District Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in *P.K.Shaji vs. State of Kerala* [(2005) AIR SCW 5560]; and

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A of IPC.

9. Subject to the above conditions, this Criminal Miscellaneous Petition is allowed.

sd/-
05/02/2024

/ TRUE COPY /

05/02/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

PKN

TO

1 THE 3RD ADDITIONAL DISTRICT
AND SESSIONS JUDGE, TIRUNELVELI.

2 THE JUDICIAL MAGISTRATE,
AMBASAMUDRAM.



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3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

4 THE SUB INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
AABASAMUDRAM,
TIRUNELVELI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:
THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI. (CALL FOR RECORDS)

+1 CC to M/s.V.S.KISHOK KUMAR, Advocate (SR-1425[I] dated 05/02/2024)

ORDER
IN
CRL MP(MD) No.1191 of 2024
in
CRL RC(MD)No.97 of 2024
Date :05/02/2024

SS/SAR- /06/02/2024/6P/9C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023